

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

CAROLYN KAY MARTIN

APPELLANT,

v.

JOHN TIMOTHY MARTIN

RESPONDENT.

DOCKET NUMBER WD78527

DATE: March 15, 2016

Appeal From:

Jackson County Circuit Court
The Honorable Marco A. Roldan, Judge

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Mark D. Pfeiffer, Judge and Karen King Mitchell, Judge

Attorneys:

Michael M. Spiegel, Blue Springs, MO, for appellant.

Robert L. Knapp and Robert C. Paden, Jr., Independence, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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No. WD78527

Jackson County

Before Division Two: Cynthia L. Martin, Presiding Judge, Mark D. Pfeiffer, Judge and Karen King Mitchell, Judge

Carolyn Kay Martin appeals from the trial court's judgment that dissolved her marriage with John Timothy Martin, divided marital property and marital debt, and denied her an award of maintenance. Wife challenges only the trial court's denial of an award of maintenance.

AFFIRM.

Division Two holds:

(1) Wife's acceptance of marital property is not inconsistent with her position that she should nonetheless be entitled to an award of maintenance. Wife's claim on appeal would not impact the division of marital property and debt but would at best increase her award. Thus, Husband is not prejudiced by Wife's acceptance of the benefits of the judgment involving the asset equalization payment and Husband's payment of the debt owed on the pickup truck. The motion to dismiss the appeal is denied.

(2) While Wife asserts that the trial court failed to afford appropriate weight to evidence that demonstrated her entitlement to an award of maintenance, she fails to account for contrary evidence that supports the trial court's judgment. The evidence established that Wife was capable of working a full-time job and that Wife's expenses were inflated on her income and expense statement. Further, the judgment awarded Wife her individual retirement account and half of Husband's retirement account. Wife's income and access to retirement account distributions combined to afford her with sufficient assets to provide for her reasonable needs so that the trial court did not abuse its discretion in denying Wife maintenance.

Opinion by Cynthia L. Martin, Judge

March 15, 2016

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